

**EXHIBIT 1
FILED UNDER SEAL**

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Attorneys for Sonos, Inc.

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA**

GOOGLE LLC.

Case No. 3:20-cv-6754

Plaintiff,

**SONOS, INC.'S PRELIMINARY
DAMAGES DISCLOSURE PURSUANT
TO PATENT LOCAL RULE 3-8**

SONOS, INC.

Honorable William Alsup

Defendant.

1 Pursuant to Patent Local Rule 3-8, Sonos, Inc. (“Sonos”) submits these Preliminary
2 Damages Contentions. No claim construction has taken place in this case, and only limited
3 discovery is currently available. Indeed, merits discovery in this action is just getting started and,
4 as of the date of service of these contentions, is not scheduled to close until November 30, 2022.
5 To date, Google has also not produced sufficient documents responsive to Sonos’s document
6 requests and no depositions have been taken. Likewise, Google’s interrogatory responses are
7 woefully deficient in many respects and completely non-responsive in others. As a non-limiting
8 example, in response to Sonos’s interrogatory asking Google to explain each “revenue stream
9 connected to and/or promoted by the Accused Instrumentalities,” Google failed to provide a
10 substantive response and merely stated that “Google is willing to meet and confer to clarify and
11 narrow the scope of this request.” Without the benefit of proper and additional discovery
12 responses from Google, Sonos cannot provide fulsome responses to the disclosures required by
13 Patent Local Rule 3-8.

14 This disclosure is based upon Sonos’s own information as well as the limited information
15 produced by Google, LLC (“Google”) to date in this case and information Sonos has been able to
16 obtain from public sources, together with Sonos’s good faith beliefs regarding the Accused
17 Instrumentalities in this case. The damages theories contained herein are preliminary only and
18 are not intended to be binding, exclusive, or exhaustive. Sonos’s investigation is ongoing and its
19 ultimate damages theories in this case will require extensive analysis by Sonos’s damages expert.

20 Accordingly, Sonos reserves the right to supplement, amend, or modify these disclosures
21 based on the Court’s claim construction, its continuing review of information produced by
22 Google, its review of information requested from but not yet produced by Google, depositions
23 related to such information, positions taken by Google in this or other litigation, publicly
24 available information, additional information produced in this case through formal discovery or
25 otherwise, expert analysis, and/or for any other permissible reasons under the Local Rules and
26 Patent Local Rules of this Court or the Federal Rules of Civil Procedure and as the Court may
27 permit.

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1 Moreover, these damages contentions address only those patent claims and Accused
2 Instrumentalities identified in Sonos’s Patent Local Rule 3-1 infringement contentions.¹ As such,
3 for purposes of this disclosure under Patent Local Rule 3-8, common terms like “Asserted
4 Claims,” “Asserted Patents,” and “Accused Instrumentalities” should be understood to have the
5 same meanings as set forth in Sonos’s Patent Local Rule 3-1 infringement contentions.² Sonos’s
6 Patent Local Rule 3-1 infringement contentions (and all amendments thereto) are incorporated
7 herein by reference.

8 Sonos expressly reserves all objections regarding the use of this preliminary disclosure,
9 for any purpose, and does not waive any applicable privileges. Sonos also reserves the right to
10 rely on any facts, method, or analysis that Google offers in any proceeding between Sonos and
11 Google. Sonos further reserves the right to rely on any evidence that Google relies on in, or
12 creates for the purposes of, any proceeding between Sonos and Google.

13 I. Legal Background

14 Pursuant to Local Patent Rule 3-8(a), Sonos’s Preliminary Damages Contentions, as set
15 forth in detail below, will “[i]dentify each of the category(-ies) of damages it is seeking for the
16 asserted infringement, as well as its theories of recovery, factual support for those theories, and
17 computations of damages within each category, including:

- 18 1) Lost profits;
19 2) Price erosion;
20 3) Conveyed or collateral sales;
21 4) Reasonable royalty; and
22 5) Any other form of damages.”

23 “Local Rule 3-8 does not require certainty, and it is not fairly interpreted as replacing the
24 robust analysis of a patent damages expert report.” *Twilio, Inc. v. Telesign Corp.*, Case No. 16-

25 ¹ Sonos has asserted claims against Google from the following patents: U.S. Patent Nos.
26 9,967,615 (the “‘615 Patent”), 10,779,033 (the “‘033 Patent”), 10,469,966 (the “‘966 Patent”),
27 and 10,848,885 (“the ‘885 Patent”) (collectively, “the Asserted Patents”).
28 ² For purposes of this disclosure, a reference to “Accused Instrumentalities” shall also be
understood to include the accused Cast-enabled apps and/or the Google Home app, either
individually or collectively with the smartphone, tablet, or computer devices on which such apps
are installed (or to be installed).

1 Home Hub, Nest Hub, and Nest Hub Max; and (x) revenue associated with consumer data
2 collected via Google’s Home Hub, Nest Hub, and Nest Hub Max.

3 Thus, as endorsed by Google, applying a standard industry royalty rate, e.g., the 4%
4 electrical and electronics industry royalty rate from IPSCIO, to the revenue generated/derived by
5 the Accused Instrumentalities,

6 [REDACTED]
7 [REDACTED]
8 results in a reasonable royalty award of [REDACTED]

9 See GOOG-
10 SONOSNDCA-00055305.

11 As explained herein, however, Google has not provided all the revenue generated/derived
12 by the Accused Instrumentalities, and thus, this is likely an incomplete estimate of the reasonable
13 royalty under the Market Approach.

14 A similar Market Approach analysis to that set forth above could be applied for the other
15 Asserted Patents with adjustments being made for the relevant damages period.⁵

16 As set forth below, pursuant to Patent Local Rule 3-8(b), Sonos contends it is unable to
17 provide a more fulsome response regarding the Market Approach without additional discovery
18 from Google, as well as expert opinion on the relevance and comparability of identified
19 transactions, agreements, and industry information.

20 **3. Income Approach**

21 The Income Approach identifies the expected and/or actual financial benefit to the
22 licensee from the exploitation of the Asserted Patents. The Income Approach is generally
23 regarded as the most common approach for patent valuation because it is directed to estimating

24 _____
25 ⁵ For its earlier estimate in the Joint Case Management Statement, Sonos used an ultra-
26 conservative and simplified approach to estimate damages by applying a 4% industry royalty rate
27 to Google’s reported [REDACTED] (which is the clearest and
most detailed financials that Google has provided in this case) for the fullest infringement period
(2018-Q3 through 2021-Q3) in Google’s financials, which resulted in a damages award of
[REDACTED]. However, as explained herein, this conservative revenue figure does not reflect
28 the total revenue generated/derived by the Accused Instrumentalities, which Google has not yet
provided.

1 Dated: January 25, 2022

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CERTIFICATE OF SERVICE

I certify that a true and correct copy of the above and foregoing document was served on counsel for Google, LLC via electronic delivery on January 25, 2022.

Dated: January 25, 2022

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